THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.2399 of 2007

Date: 12.02.2007

Between:

L.Bapu Rao

....Petitioner

and

The Superintending Engineer (Marketing) & another.

....Respondents

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O R D E R:

The second respondent issued a tender notice, dated 11.01.2007, through online process for the purpose of laying roads within the market-yard of Echoda, Adilabad District and estimated a cost of Rs.29,54,694/-. The tenders were to be submitted at two stages, namely technical bid and price bid. As a part of technical bid, the tenderers were required, *inter alia* to file the registration certificate under VAT, clearance certificate of ST/VAT and latest income tax returns.

The petitioner and two others submitted their tenders for the work. The price bid of one tenderer alone was opened and those of the petitioner and another tenderer were not opened on the ground that the technical bids submitted by them were defective. The petitioner states that he offered to execute the work at a cost, which is 18.7% less than the estimated amount, whereas the contract is sought to be sanctioned to a person quoted almost estimated cost. The petitioner challenges the action of the respondents in rejecting his tender.

On behalf of the respondents, a counter affidavit is filed. It is stated that though the petitioner filed the registration certificate of VAT, he did not file clearance certificate and that income tax returns submitted by him were of the year 2000. The tender of

another person is said to be defective almost for the same reasons.

Sri S.Surender Reddy, the learned counsel for the petitioner submits that the very adoption of double cover system for the works, whose estimated value is less than Rs.50 lakhs, is contrary to the order passed by the Government in G.O.Ms.No.142 Irrigation & CAD (PW Reforms) Department, dated 20.12.2004. He contends that it is only in respect of the works, whose value is over and above Rs.50 lakhs that the double cover system was to have been followed. He further contends that a comprehensive certificate was issued by the authorities concerned of Commercial Tax Department. So far as the income tax returns is concerned, the learned counsel submits that there are no arrears of tax and the copy of returns submitted by his client ought to have been accepted.

Sri V.V.Narayana Rao, the learned counsel for the respondents, on the other hand, submits that the instructions contained in G.O.Ms.No.142, dated 20.12.2004, are not applicable to the works undertaken by the Market Committee. He contends that the petitioner did not protest while submitting his tender and it is not open to him to raise the objection at this stage. The learned counsel points out that the petitioner failed to comply with the important and material conditions and that no exception can be taken to the action of the respondents.

The first limb of the arguments advanced on behalf of the petitioner is that the respondents ought

not to have followed the double cover system, i.e. the technical bid and price bid for the work in question. Reliance is placed upon the orders of the Government in G.O.Ms.No.142, dated 20.12.2004. A perusal of the same does not disclose that it was extended to the works to be undertaken by the Market Committees. Be that as it may, when the tender notice was so clear in terms providing for double cover system, the petitioner ought to have raised his objection at the initial stage itself, if he had any reservations about it. He has chosen to submit his tender without any demur. He cannot raise the objection after his tender is rejected.

It is urged that the certificate issued by the Commercial Tax Officer, Adilabad Circle would satisfy the requirements under the notification. The certificate, dated 20.01.2007, filed along with the writ petition discloses that the petitioner was registered under the A.P. VAT Act, 2005. A further observation is to the effect that he submitted income tax returns up to December, 2000. The requirement under the tender notice is that latest income tax returns must be submitted.

When such serious lapses were there on the part of the petitioner, the respondents were not expected to open his price bid. Hence, this Court does not find any basis to grant any relief to the petitioner.

Accordingly, the writ petition is dismissed. There shall be no order as to costs.

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12.02.2007

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